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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,280	12/12/2001	Michael Wayne Brown	AUS920010823US1	7043

7590

04/11/2003

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EXAMINER

ELAHEE, MD S

ART UNIT

PAPER NUMBER

2697

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/015,280

Applicant(s)

BROWN ET AL.

Examiner

Md S Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 03.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Restriction Requirement***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:  
  
Group I. Claims 1-30 and 35-39, drawn to Voice activation or recognition, classified in Class 379, subclass 88.01.  
  
Group II. Claims 31-34, drawn to Call intercept or answering at central office, classified in Class 379, subclass 84.  
  
The inventions are distinct, each from the other because of the following reasons:
  2. Inventions Group I. Claims 1-30 and 35-39, drawn to Voice activation or recognition, classified in Class 379, subclass 88.01 and Group II. Claims 31-34, drawn to Call intercept or answering at central office, classified in Class 379, subclass 84 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this instant case, invention Group I has separate utility such as for use in Voice activation or recognition for the origin device. See M.P.E.P. § 806.05(d).
  3. Because these inventions are distinct for the reason given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated proper.
  4. During a telephone conversation with Cynthia S. Byrd on 04/02/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-30 and 35-39. Affirmation of this election must be made by applicant in responding to this Office action. Claims 31-34 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

***Claim Rejections - 35 USC § 112***

6. Claims 9, 10, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 9 and 20, line 19, the phrase "said origin device" lacks antecedent basis because it appears that the "said origin device" should be "said destination device" according to claims 9 and 20.

Regarding claims 10 and 21, line 23, the phrase "said origin device" lacks antecedent basis because it appears that the "said origin device" should be "said destination device" according to claims 9 and 20.

***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-6, 9-17 and 20-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 9-17 and 20-30 of copending Application No. 10015267. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the present invention recites a method for identifying a particular callee, said method comprising: detecting, at a destination device, a voice utterance of a callee; and identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call. Claim 1 of the copending Application recites a method for identifying a particular callee, said method comprising: detecting, at an origin device, a voice utterance of a callee from a destination device; and identifying, at said origin device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call and are obvious variations of the present invention as claimed.

Claim 12 of the present invention recites a system for identifying a particular callee, said system comprising: a destination device connected to a telephone network; means for detecting, at said origin device, a voice utterance of a callee from a destination device; means for identifying a callee identity associated with said voice utterance at said destination device. Claim 12 of the copending Application recites a system for identifying a particular callee, said system comprising: an origin device connected to a telephone network; means for detecting, at said

origin device, a voice utterance of a callee from a destination device; means for identifying, at said origin device, a callee identity associated with said voice utterance, wherein said callee identity is transmittable as an authenticated identity of said callee for a call and are obvious variations of the present invention as claimed.

Claim 23 of the present invention recites a computer program product for identifying a particular callee, said computer program product comprising: a recording medium; means, recorded on said recording medium, for detecting a voice utterance of a callee from a destination device; and means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance at said destination device. Claim 23 of the copending Application recites a computer program product for identifying a particular callee, said computer program product comprising: a recording medium; means, recorded on said recording medium, for detecting a voice utterance of a callee from a destination device at an origin device; means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance, wherein said callee identity is transmittable as an authenticated identity of said callee for a call and are obvious variations of the present invention as claimed.

Regarding claims 2-6, 9-11, 13-17, 20-22 and 24-30, the claim descriptions are the same as the inventor's another application having the case no. 10015267.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 2, 4, 8, 10-13, 15, 19, 21-24, 26, 30 and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartholomew et al. (U.S. Patent No. 6,167,119).

Regarding claim 1, Bartholomew teaches detecting, at the IP 23, an input speech of an answering party (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'destination device' and 'an input speech of an answering party' reads on the claim 'a voice utterance of a callee').

Bartholomew further teaches identifying, at the IP 23, an answering party associated with the input speech, such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'IP 23' reads on the claim 'destination device', 'input speech' reads on the claim 'voice utterance' and 'telephone call' reads on the claim 'incoming telephone call').

Regarding claims 2, 13 and 24, Bartholomew teaches instructing the answering party, from the IP 23, to provide the input speech (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'instructing' reads on the claim 'prompting', 'answering party' reads on the claim 'callee', 'IP 23' reads on the claim 'destination device' and 'input speech' reads on the claim 'voice utterance').

Regarding claims 4, 15 and 26, Bartholomew teaches extracting speech information from the input speech (col.43, lines 36-67, col.44, lines 1-12; 'information' reads on the claim 'characteristics' and 'input speech' reads on the claim 'voice utterance').

Bartholomew further teaches comparing the speech information to stored pattern information for identifying the answering party (col.43, lines 36-67, col.44, lines 1-12; 'information' reads on the claim 'characteristics', 'stored pattern information' reads on the claim 'a plurality of voice samples stored' and 'the answering party' reads on the claim 'a plurality of callees').

Regarding claims 8, 19 and 30, Bartholomew teaches enabling the caller to identify a preferred answering party at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'instructing' reads on the claim 'prompting', 'answering party' reads on the claim 'callee', 'IP 23' reads on the claim 'destination device').

Bartholomew further teaches inherently terminating the call if the answering party identity is different than the preferred answering party (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee').

Regarding claims 10 and 21, Bartholomew teaches that the IP 23 is inherently a telephony device (fig.1; col.11, lines 63-67, col.12, lines 1-49, col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'destination device').

Regarding claims 11 and 22, Bartholomew teaches that the answering party identity comprises at least one from among an answering party name, an answering party location, a subject of the call, and a central office identification (col.41, lines 1-67, col.42, lines 1-58, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee' and 'central office' reads on the claim 'device').

Regarding claim 12, Bartholomew teaches an IP 23 connected to an intelligent telephone network (fig.1; col.11, lines 63-67, col.12, lines 1-49, col.14, lines 9-52, col.43, lines 36-67,



col.44, lines 1-12; 'IP 23' reads on the claim 'destination device' and 'intelligent telephone network' reads on the claim 'telephone network').

Bartholomew teaches detecting, at the IP 23, an input speech of an answering party from the subscriber premises (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'destination device' and 'an input speech of an answering party from the subscriber premises' reads on the claim 'a voice utterance of a callee from a destination device').

Bartholomew further teaches identifying an answering party identity associated with the input speech at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'voice utterance' and 'IP 23' reads on the claim 'destination device').

Regarding claim 23, Bartholomew teaches database (col.37, lines 21-32, col.42, lines 59-67, col.43, lines 1-67, col.44, lines 1-12; 'database' reads on the claim 'recording medium').

Bartholomew teaches detecting, at the IP 23, an input speech of an answering party from the subscriber premises (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'destination device' and 'an input speech of an answering party from the subscriber premises' reads on the claim 'a voice utterance of a callee from a destination device').

Bartholomew further teaches identifying an answering party identity associated with the input speech at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'voice utterance' and 'IP 23' reads on the claim 'destination device').

Regarding claim 35, Bartholomew teaches detecting an input speech at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input' and 'IP 23' reads on the claim 'biometric enabled destination device').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23, such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'biometric input', 'IP 23' reads on the claim 'origin device' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

Regarding claim 36, Bartholomew teaches an input speech (col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'at least one from among an eye print, a finger print, a voice input, and a body heat scan').

Regarding claim 37, Bartholomew teaches an IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'biometric enabled destination device').

Bartholomew teaches detecting an input speech at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input' and 'IP 23' reads on the claim 'biometric enabled destination device').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23, such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'biometric

input', 'IP 23' reads on the claim 'origin device' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

Regarding claim 38, Bartholomew teaches an input speech (col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'at least one from among an eye print, a finger print, a voice input, and a body heat scan').

Regarding claim 39, Bartholomew teaches database (col.37, lines 21-32, col.42, lines 59-67, col.43, lines 1-67, col.44, lines 1-12; 'database' reads on the claim 'recording medium').

Bartholomew teaches detecting an input speech at the IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input' and 'IP 23' reads on the claim 'biometric enabled destination device').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23, such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'biometric input', 'IP 23' reads on the claim 'origin device' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of McAllister (U.S. Patent No. 6,101,242).

Regarding claims 3, 14 and 25, Bartholomew fails to teach “prompting said callee to enter an additional input to verify said callee identity”. McAllister teaches prompting the called party for one or more repeat attempts (col.34, lines 1-61; ‘called party’ reads on the claim ‘callee’ and ‘for one or more repeat attempts’ reads on the claim ‘enter an additional input to verify said callee identity’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow prompting the callee to enter an additional input as taught by McAllister. The motivation for the modification is to have the prompt in order to provide more information to verify identification of the called party.

13. Claims 7, 18 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of Silverman et al. (U.S. Patent No. 5,875,240).

Regarding claims 7 and 18, Bartholomew teaches transferring said callee identity to an IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; ‘IP 23’ reads on the claim ‘origin device’ and ‘an input speech of an answering party’ reads on the claim ‘a voice utterance of a callee’). However, Bartholomew fails to teach “said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee”. Silverman teaches displaying the called party identification information at the end-user device to which the call is routed before the call is answered (col.2, lines 26-55; ‘displaying

the called party identification information' reads on the claim 'said origin device is enabled to output said callee identity to a caller' and 'the end-user device to which the call is routed before the call is answered' reads on the claim 'said caller is enabled to select whether to communicate with said callee'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow displaying the callee identity as taught by Silverman. The motivation for the modification is to have the display in order to provide the information of the called party.

Regarding claim 29, Bartholomew teaches transferring said callee identity to an IP 23 (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'IP 23' reads on the claim 'origin device' and 'an input speech of an answering party' reads on the claim 'a voice utterance of a callee'). However, Bartholomew fails to teach "said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee". Silverman teaches displaying the called party identification information at the end-user device to which the call is routed before the call is answered (col.2, lines 26-55; 'displaying the called party identification information' reads on the claim 'said origin device is enabled to output said callee identity to a caller' and 'the end-user device to which the call is routed before the call is answered' reads on the claim 'said caller is enabled to select whether to communicate with said callee'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow displaying the callee identity as taught by Silverman. The motivation for the modification is to have the display in order to provide the information of the called party.

14. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of Baker (U.S. Patent No. 5,533,109).

Regarding claims 9 and 20, Bartholomew fails to teach "said destination device is a private exchange network". Baker teaches that the calling party device is a PBX unit (fig.1, fig.2; col.2, lines 26-55; 'calling party device' reads on the claim 'destination device' and 'PBX unit' reads on the claim 'private exchange network'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow the destination device as a private exchange network as taught by Baker. The motivation for the modification is to have the private exchange network in order to provide the multiple users as the calling party.

#### ***Allowable Subject Matter***

15. Claims 5, 6, 16, 17, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alam Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (703)305-4717. The fax phone numbers for the

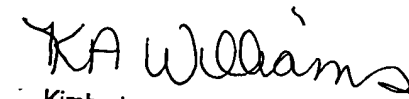
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organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

M. E.  
MD SHAFIUL ALAM ELAHEE  
April 7, 2003

  
Kimberly A. Williams  
Primary Examiner  
Technology Center 2600